

Filing # 62466406 E-Filed 10/05/2017 03:40:34 PM

IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.:

NORTH PALM BEACH PROPERTIES,  
INC.,

Plaintiff,

v.

RIVERSIDE APARTMENTS (N.P.B.), LLC.,

Defendants.

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COMPLAINT

Comes now the Plaintiff, NORTH PALM BEACH PROPERTIES, INC. (hereinafter "Plaintiff North Palm") by and through his undersigned attorneys, and sues Defendant RIVERSIDE APARTMENTS (N.P.B.), LLC. (hereinafter "Defendant Riverside"), and as grounds therefore states as follows:

GENERAL ALLEGATIONS AS TO ALL COUNTS

1. Plaintiff North Palm is a Florida corporation, with an address of 13907 Carrollwood Village Run, Tampa, Florida 33618, authorized and doing business in Palm Beach County, Florida.

2. Defendant Riverside is a Florida limited liability company, with an address of 528 Anchorage Drive, North Palm Beach, Florida 33408, authorized and doing business in Palm Beach County, Florida.

3. Venue is proper in this Court as all the acts that gave rise to the

Plaintiff's Complaint occurred in Palm Beach County, Florida.

4. Jurisdiction is appropriate as both parties are doing business in Palm Beach County, Florida, and the real property at issue in this action is situated in Palm Beach County, Florida.

5. This action exceeds \$15,000.00, exclusive of interest, costs, and attorneys' fees.

6. Plaintiff North Palm acquired title to the North Palm Property by deed recorded in Deed Book 1114, Page 281 and Deed Book 1114, Page 287 of the Public Records of Palm Beach County, Florida.

7. Plaintiff North Palm is the fee simple owner of the North Palm Property.

8. Plaintiff North Palm has maintained possession of the North Palm Property since acquiring title to it.

9. Upon information and belief Plaintiff North Palm has paid taxes on the North Palm Property under Parcel Control Number of 68-43-42-16-00-004-0020 since acquiring title to the North Palm Property. The South Florida Water management District, the holder of an easement on the North Palm Property, paid taxes in 1999 and 2001, and were subsequently reimbursed by Plaintiff North Palm.

10. Upon information and belief Defendant Riverside has never paid taxes

on the North Palm Property.

11. Plaintiff has never expressly given Defendant Riverside consent to enter, possess, or otherwise use the North Palm Property.

12. On or about August 8, 2017, Plaintiff North Palm notified Defendant Riverside that it was not permitted to continue to use and occupy the North Palm Property (the "Notice"). See Plaintiff North Palm's Notice attached hereto as **Exhibit "A"**.

13. Plaintiff North Palm has retained the undersigned law firm and agreed to pay them a reasonable fee for their services.

14. Plaintiff North Palm has performed all conditions precedent and necessary to bring this action.

#### **COUNT I – TRESPASS**

15. Plaintiff North Palm realleges the allegations contained in paragraphs numbered 1 through 14 set forth above and re-incorporates them herein as if set forth at length.

16. Defendant Riverside has intentionally, willfully, and with reckless indifference committed an unauthorized entry onto Plaintiff's North Palm Property.

17. Defendant Riverside constructed docks and boat slips in, on, and upon Plaintiff's North Palm Property.

18. Defendant Riverside continues to trespass upon Plaintiff's North Palm Property despite Defendant Riverside's full actual knowledge that it has no right to do, and after Plaintiff North Palm's demand that it cease continuation of its trespass.

19. Plaintiff North Palm has been and will in the future be deprived of the full use and enjoyment of its premises and will suffer damages.

20. Plaintiff North Palm's fee simple ownership has been alienated and that title has been clouded.

21. The submerged land in which Defendant Riverside has anchored its docks and boat slips on Plaintiff's North Palm Property has been damaged by Defendant Riverside, thus further damaging Plaintiff North Palm and exposing Plaintiff North Palm to costs of restoration.

22. Plaintiff North Palm has notified Defendant Riverside that their docks and boat slips are an encroachment and trespass upon Plaintiff's North Palm Property and have demanded their removal, but Defendant Riverside has failed and refused to remove the docks and boat slips.

**WHEREFORE**, Plaintiff North Palm demands judgment for damages against Defendant Riverside and requests that the Court award Plaintiff North Palm its reasonable attorneys' fees and costs and grant such further relief as the Court deems just and proper under the circumstances.

**COUNT II - EJECTMENT**

23. Plaintiff North Palm realleges the allegations contained in paragraphs numbered 1 through 14 set forth above and re-incorporates them herein as if set forth at length.

24. Plaintiff North Palm is entitled to use the North Palm Property free from encumbrances from tortious actions from adjacent property owners, including Defendant Riverside and its members.

25. The ownership of the North Palm Property is not in dispute.

26. Defendant Riverside's docks and boat slips have been erected in, on, and upon Plaintiff North Palm's land and prohibits Plaintiff North Palm's quiet enjoyment of its North Palm Property.

27. Defendant Riverside has ousted Plaintiff North Palm from its North Palm Property.

28. At no point has Plaintiff North Palm agreed or otherwise acquiesced to the construction of Defendant Riverside's docks and boat slips or the use thereof for docking boats.

29. After Plaintiff North Palm learned of Defendant Riverside's encroachment, Plaintiff North Palm began its efforts to have Defendant Riverside's remove the docks and boat slips.

WHEREFORE, Plaintiff North Palm requests that the Court declare and decree that (i) Defendant Riverside's docks and boat slips are situated on Plaintiff's North Palm Property; (ii) that Defendant Riverside must remove the docks and boat slips and leave Plaintiff's North Palm Property in good condition; (iii) that Plaintiff North Palm is entitled to damages for Defendant Riverside's damage and destruction to Plaintiff's North Palm Property; and (iv) grant such further relief as the Court deems just and proper under the circumstances.

**COUNT III – UNLAWFUL DETAINER**

30. Plaintiff North Palm realleges the allegations contained in paragraphs numbered 1 through 14 set forth above and re-incorporates them herein as if set forth at length.

31. Defendant Riverside, by installation of docks and boat slips, has use and possession of the North Palm Property.

32. Upon information and believe, Defendant Riverside took possession of the North Palm Property without Plaintiff North Palm's express consent.

33. Pursuant to the Notice, on or about August 8th, 2017, Plaintiff North Palm revoked any consent for Defendant Riverside to be in possession of the North Palm Property and, on that date, demanded that Defendant Riverside vacate the North Palm Property.

34. Defendant Riverside refuses to vacate the North Palm Property and continues in possession of the North Palm Property against Plaintiff North Palm's consent.

35. Defendant Riverside willfully withholds the North Palm Property from Plaintiff North Palm.

36. It has been less than three (3) years since Plaintiff North Palm revoked its consent and demanded that Defendant Riverside vacate the North Palm Property.

37. Plaintiff North Palm continues to be deprived of possession of its North Palm Property.

38. Plaintiff North Palm is entitled to have Defendant Riverside removed from possession of the North Palm Property; and Plaintiff North Palm is entitled to the summary procedure set forth in Section 51.011, Florida Statutes.

**WHEREFORE**, Plaintiff North Palm respectfully requests that the Court: (i) find that Defendant Riverside wrongfully holds possession of the North Palm Property; (ii) grant final judgment in favor of Plaintiff North Palm and against Defendant Riverside; (iii) issue a writ of possession in favor of Plaintiff North Palm and against Defendant Riverside in accordance with Section 82.091, Florida Statutes, to be executed without delay; (iv) award to Plaintiff North Palm damages for Defendant Riverside's damage and destruction to Plaintiff's North Palm Property;

and (v) award to Plaintiff North Palm the costs of this action; and (vi) grant to Plaintiff North Palm such other relief as justified by the circumstances in this case.

Respectfully submitted,

Ward Damon  
4420 Beacon Circle  
West Palm Beach, Florida 33407  
Tel: 561.842.3000/Fax: 561.842.3626  
e-mail: litservice@warddamon.com

/s/ Denise J. Bleau  
By \_\_\_\_\_  
Denise J. Bleau, Esquire  
Florida Bar No. 599514

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been filed, via the Court's E-Portal System which will send an electronic notice to counsel for Defendant, James S. Telepman, Esq. and all counsel of record this 5th day of October, 2017.

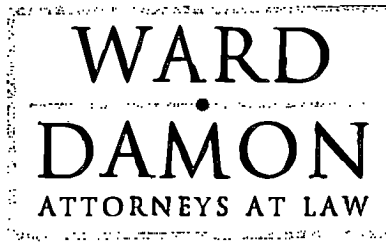
/s/ Denise J. Bleau

\_\_\_\_\_  
Denise J. Bleau, Esquire  
Florida Bar No. 599514



**EXHIBIT “A”**

NOT A CERTIFIED COPY



**4420 Beacon Circle  
West Palm Beach, Florida 33407  
Tel: (561) 842-3000/Fax: (561) 842-3626**

***Philip H. Ward, III***  
**[pward@warddamon.com](mailto:pward@warddamon.com)**

August 8, 2017

**Via Email: [jst@fcohenlaw.com](mailto:jst@fcohenlaw.com)**

James S. Telepman, Esq.  
Cohen, Norris, Wolmer, Ray, Telepman, Cohen  
712 U.S. Highway One – Suite 400  
North Palm Beach, FL 33408-7146

Re: 761 Hummingbird Way, North Palm Beach, Florida

Dear Mr. Telepman:

My last correspondence from you with regards to the above-referenced matter was May 16, 2017. It appears that your clients are unwilling to pay the purchase price required for the property which they are unlawfully using and occupying at this time. Therefore, please consider this notification of trespass, by your clients, on our client's property. You are advised that that your clients are not authorized to enter our client's property and must immediately cease any further entry and use of the property, specifically including the dock within the property.

To be clear, our client owns fee simple title to the real property appurtenant to your client's north property line and including the C-17 canal. Please inform your client to immediately remove the vessel from the dock, and to cease any further use of the dock.

Very truly yours,

A handwritten signature in black ink, appearing to be "PHW", is written over a horizontal line. Below the signature, the name "Philip H. Ward, III" is printed in a serif font.

Philip H. Ward, III

PHW/gdg

cc: North Palm Beach Properties, Inc.